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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,605	07/17/2003	Qi Xiang	64965-168	9283
7590 02/24/2006 McDermott, Will & Emery 600 13th Street, N.W. Washington, DC 20005-3096			EXAMINER CRANE, SARA W	
			ART UNIT - 2811	PAPER NUMBER -

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/620,605

Applicant(s)

XIANG, QI

Examiner

Sara W. Crane

Art Unit

2811

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


Sara W. Crane
Primary Examiner
Art Unit: 2811

Continuation of 11. does NOT place the application in condition for allowance because: The examiner still cannot determine what Applicant means by "interposed isolation regions." The ordinary meaning of the term interposed is set forth in the dictionary meaning, cited in the previous Office action. Applicant has not provided any additional evidence or argument as to why the dictionary meaning should not be taken as the ordinary meaning. The pending claims use the term "interposed" in a manner contrary to the dictionary meaning, as noted in the Office action of 11/16/2005, where the dictionary meaning refers to an act of insertion, and no specific act of insertion appears to be intended by the claim language. Claim terminology can be used in a manner contrary to the ordinary meaning, but such usage must be clearly redefined in the written description. MPEP 2173.05. No definition of the claim terminology appears at all in the specification, and, as noted in the previous Office action, the only use of the term "interposed" in the specification refers to gate oxide, and not to isolation regions.

Applicant argues that the examiner should not refer to a dictionary for a definition of claim terminology because this elevates the dictionary to too much prominence. Applicant then argues that the examiner should not refer to the specification for a definition of claim terminology, because this would import limitations from the specification into the claims. The only source left to determine the definition of claim terminology is Applicant's Remarks, but here Applicant appears to carefully avoid setting forth any definition at all in the Remarks, choosing instead to argue only the the interpretations found by the examiner are somehow too limiting. Of course, Applicant is entitled to the broadest reasonable interpretation, consistent with the specification, but here, the term "interposed" does not appear to be used at all in the specification to refer to isolation regions. Is there some evidence of record other than as noted by the examiner, or does Applicant have some evidence that could be made to record, to show the usage of this term in the art to refer to isolation regions? Or, alternatively, could a specific definition be provided within Remarks, to say what the term means? Or perhaps the claims could simply be amended to specify exactly the metes and bounds intended. Examiner would be happy to enter any amendment placing the application in condition for allowance.